

LAW OFFICES

# ROSS & HARDIES

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

150 NORTH MICHIGAN AVENUE

CHICAGO, ILLINOIS 60601-7567

312-558-1000

TELECOPIER  
312-750-8600

RECORDATION NO. 18363-B

FILED 1425

PARK AVENUE TOWER  
35 EAST 55TH STREET  
NEW YORK, NEW YORK 10022-3219  
212-421-5555

560 HOWARD AVENUE  
SOMERSET, NEW JERSEY 08873  
908-563-2700

INTERSTATE COMMERCE COMMISSION

August 12, 1993

RECORDATION NO. 18363-A

FILED 1425

SIXTEENTH STREET, N.W.  
WASHINGTON, D.C. 20006-4103  
202-296-8600

## Via Hand Delivery

1993 1.50PM

INTERSTATE COMMERCE COMMISSION

Mr. Sidney L. Strickland, Jr.  
Secretary  
Interstate Commerce Commission  
12th Street and Constitution Avenue, N.W.  
Washington, D.C. 20423

RECORDATION NO. 18363 FILED 1425

1993 1.50PM

INTERSTATE COMMERCE COMMISSION

Dear Mr. Strickland:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. §11303(a) is one original executed copy and two photostatic copies of the following:

### Primary Document:

Loan and Security Agreement dated as of August 10, 1993 from Allied Enterprises, Inc. (Debtor) to Deutsche Credit Corporation (Secured Party) and evidencing a security interest in 69 gondola railcars described on Exhibit B to the Loan and Security Agreement.

### Secondary Document:

Memorandum of Lease Agreement dated as of August 10, 1993 between Allied Enterprises, Inc. (Lessor) and Arkansas & Missouri Railroad Company (Lessee) and memorializing a Lease Agreement relating to the 69 gondola railcars described in Schedule A to the Memorandum of Lease Agreement.

08/12/93

L:\WPDOCS\SLICHTE\ 35822-1.LTR

*Michael B. Harris*

Mr. Sidney L. Strickland, Jr.  
August 12, 1993  
Page 2

Secondary Document: Assignment of Lease and Rents dated as of August 10, 1993 from Allied Enterprises, Inc. (Debtor) to Deutsche Credit Corporation (Secured Party) and relating to the 69 gondola railcars described in Exhibit A to the Assignment of Lease and Rents, which Assignment of Lease and Rents has been acknowledged pursuant to the Acknowledgement and Notice of Assignment executed by Arkansas & Missouri Railroad Company.

The names and addresses of the parties to the enclosed documents are:

Secured Party:	Deutsche Credit Corporation 2333 Waukegan Road Deerfield, IL 60015
Debtor/Lessor:	Allied Enterprises, Inc. 107 North Commercial St. Springfield, AR 72764
Lessee:	Arkansas & Missouri Railroad Company 107 North Commercial St. Springfield, AR 72764

A description of the railroad equipment covered by the enclosed documents is appended to this letter and is contained as an exhibit or schedule to each of the above-referenced documents.

Enclosed are three checks, each in the amount of \$16.00, payable to the order of the Interstate Commerce Commission, covering the required recordation fee for the above-described documents.

Please return the stamped original and one stamped photostatic copy of the enclosed documents and the stamped

Mr. Sidney L. Strickland, Jr.  
August 12, 1993  
Page 3

photostatic copy of this letter to Susan G. Lichtenfeld at Ross & Hardies, 150 North Michigan Avenue, Suite 2500, Chicago, IL 60601 or the bearer of this letter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "S G Lichtenfeld", followed by a horizontal line.

Susan G. Lichtenfeld

SGL:z  
Encls.

cc: Nick Calabrese  
Robert W. Kleinman

ASSIGNMENT OF LEASE AND RENTS

AUG 13 1993 1-50PM

INTERSTATE COMMERCE COMMISSION

THIS ASSIGNMENT, made as of the 10th day of August, 1993, by Allied Enterprises, Inc. (hereinafter referred to as the "Company"), a Delaware corporation with its office and principal place of business at 107 N. Commercial Street, Springdale, AR 72764.

WITNESSETH:

The Company hereby sells, assigns, transfers and sets over unto the Lender all of the Company's right, title and interest in and to that certain railroad car lease agreement dated August 10th, 1993, between the Company (as lessor), and the Arkansas and Missouri Railroad Company (hereinafter, the "Lessee"), and to all rents, renewal rents, proceeds of settlement for cars thereto listed in Exhibit A attached hereto and hereby made a part hereof (hereinafter, the "Cars") which are lost, destroyed or damaged beyond repair and all other sums due and to become due under and pursuant to or by reason of the above described lease. This Assignment covers and includes all amendments and supplements to and renewals of the above-described lease at any time made (said lease including all amendments and supplements hereinafter shall be called the "Lease").

This Assignment is given and intended as continuing collateral security for the payment of any and all indebtedness of the Company to the Lender as follows: all obligations of the Company to the Lender now existing or hereafter arising, as provided for in those certain Promissory Notes in the aggregate principal amount of up to \$1,792,000 executed and delivered or to be executed and delivered by the Company to the Lender (the "Promissory Notes"), including without limitation any and all interest thereon and expenses therefor and any and all extensions and/or renewals of such obligations, all of which obligations are hereinafter called the "Obligations", whether Obligations shall at any time or from time to time have been reduced or paid in full and thereafter increased or reincurred, and no renewal of, or extension of time of payment of the Obligations or evidence of indebtedness or any part thereof, and no agreement not to sue or release or discharge of any persons liable therefor or thereon, or release or exchange of other collateral or any act or thing whatsoever shall diminish, discharge, impair or affect this Assignment or the security afforded hereby, save payment in full by the Company to the Lender of any and all Obligations of the Company to the Lender arising under the Promissory Notes, while no default exists under any of the other provisions thereof. If such payment in full is made by the Company while no such default exists or if any such payment in full is made while any default exists and all such defaults are subsequently corrected by the Company, the Company shall be entitled to have this Assignment discharged.

This Assignment is made upon the express understanding and agreement that the Lender assumes no responsibility for the performance of the Company's obligations under the Lease; shall in no event be liable to the Lessee for the failure on the part of the Company to comply with or perform any of the Company's Obligations under the Lease; and shall in no way be held to have assumed or become liable for compliance with or performance of any covenant binding upon the Company, but the Company shall continue to be bound by all such obligations and covenants.

The Company does hereby irrevocably constitute and appoint the said Lender its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to ask, demand, collect, receive, demand receipt for, sue for, compound and give acquittance for any and all amounts which may be or become due or payable for the Cars under the Lease with full power to settle, adjust or compromise any claim thereunder as fully as the Company could itself do, and to endorse the name of the Company on all negotiable instruments given in payment or in part payment thereof, and in its discretion, to file any claim or take any action or proceeding, either in its own name or in the name of the Company, or otherwise, which the Lender may deem necessary or appropriate to collect any and all sums which may be or become due or payable under the lease, or which may be necessary or appropriate to protect and preserve the right, title and interest of the Lender in and to such moneys and the security intended to be afforded hereby.

The Company authorizes and directs the Lender to notify the Lessee of this Assignment and, upon the occurrence of an event which with notice, lapse of time, or both would be an event of default under the terms of the Promissory Notes, to direct the Lessee to make all payments of all sums due or to become due under the Lease, including without limitation, payment of rental and payments for Cars lost, destroyed or damaged beyond repair, directly to Lender. Any such payments received by the Company after the occurrence of an event which with notice, lapse of time or both, would be an event of default under the terms of the Promissory Notes, shall be received as an agent for the Lender; shall be held in trust by the Company for the Lender; shall be delivered to the Lender in the same medium as received by the Company; shall under no circumstances at any time be commingled with any funds of the Company, and shall be forwarded to the Lender on the day of their receipt by the Company unless received too late for forwarding on such day, in which event they shall be forwarded on the next business day.

The Lender shall not be obligated to collect any of the rentals or other sums of money hereby assigned and the failure on the part of the Lender to collect the same shall not in any way affect any indebtedness or liabilities of the Company to the Lender and/or in any way affect any security therefore.

No renewal or extension of any or all of the indebtedness secured hereby shall operate to waive, alter, vary, affect or annul this Assignment or the security afforded hereby. Nothing herein contained shall operate as or be deemed to be an extension of the time of payment of the indebtedness secured hereby or to in any way affect any rights, powers or remedies of the Lender contained in the obligations evidencing such indebtedness or loan agreements regarding such indebtedness.

No delay by the Lender in exercising, or failure by the Lender to exercise, or partial or single exercise by the Lender of any right or power hereunder shall preclude any other or further exercise thereof or of any other right or power. The rights and remedies of the Lender as specified herein are cumulative and not exclusive of any other rights and remedies which the Lender may otherwise have.

This Assignment and all representations, warranties, covenants, powers and rights herein contained shall bind and shall inure to the benefit of the parties hereto and their respective successors and assigns.

The parties hereto agree that this Assignment of Lease and Rents and the acts of the parties hereunder shall be construed and interpreted in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, each of the parties hereto has caused these presents to be executed in its corporate name and under its corporate seal by its corporate officer thereunto authorized this 10th day of August, 1993.

**ALLIED ENTERPRISES, INC.**

By: *J. H. Hanner*

Title: *Pres*

**DEUTSCHE CREDIT CORPORATION**

By: *RA*

Title: *SVP*

By: *Alenif*

Title: *SVP*

STATE OF ARKANSAS )  
COUNTY OF WASHINGTON )

SS.

On this 10<sup>th</sup> day of AUGUST, 1993, before me personally appeared J.A. HANNOID to me personally known, who being by me duly sworn, says that he is the PRESIDENT of Allied, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Victoria R Morgan  
Notary Public

(SEAL)

My commission expires: 02-01-2002

STATE OF Illinois )  
COUNTY OF LAKE )

SS.

On this 12<sup>th</sup> day of August, 1993, before me personally appeared Robert W. Brown / Scott K. Brown to me personally known, who being by me duly sworn, says that he is the SECRETARY of DEUTSCHE CREDIT CORPORATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Wm. Brown  
Notary Public

"OFFICIAL SEAL"  
~~NOTARY~~ AS L. CALABRESE  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 10/27/93

## EXHIBIT A

PLE	47000	PLE	47062
PLE	47002	PLE	47063
PLE	47004	PLE	47074
PLE	47005	PLE	47078
PLE	47006	PLE	47080
PLE	47007	PLE	47081
PLE	47010	PLE	47083
PLE	47012	PLE	47085
PLE	47013	PLE	47086
PLE	47014	PLE	47087
PLE	47015	PLE	47088
PLE	47018	PLE	47091
PLE	47019	PLE	47093
PLE	47021	PLE	47095
PLE	47022	PLE	47096
PLE	47023	PLE	47097
PLE	47024	PLE	47098
PLE	47026	PLE	47099
PLE	47028	PLE	47101
PLE	47031	PLE	47104
PLE	47032	PLE	47107
PLE	47033	PLE	47110
PLE	47037	PLE	47111
PLE	47038	PLE	47117
PLE	47040	PLE	47119
PLE	47042	PLE	47123
PLE	47045	PLE	47126
PLE	47046	PLE	47127
PLE	47047	PLE	47128
PLE	47048	PLE	47129
PLE	47049	PLE	47130
PLE	47052	PLE	47134
PLE	47054	PLE	47135
PLE	47055	PLE	47136
PLE	47058		

\* Subsequent to modification pursuant to agreement by East Railroad Services, Inc, New Castle, PA, these Railcars will bear Marks and Numbers A & M 900-969 but not necessarily to correspond to the order set forth above.



# ACKNOWLEDGMENT AND NOTICE OF ASSIGNMENT

To: Deutsche Credit Corporation  
2333 Waukegan Road  
Deerfield, Illinois 60015

Reference is made to a Lease dated Aug 10, 1993 (the "Lease") between Allied Enterprises, Inc. (the "Lessor") and Arkansas and Missouri Railroad Company (the "Lessee") relating to the lease of certain railcars described in the Schedule attached hereto. Words and phrases not otherwise defined herein shall have the meanings assigned thereto in the Lease.

Lessee has been notified by Lessor, that Lessor has assigned, transferred, and granted a security interest in the Lease to Deutsche Credit Corporation (the "Lender") as collateral security for obligations of the Lessor to the Lender under a Loan and Security agreement between Lessor and Lender, dated as of August 10, 1993 (the "Loan Agreement").

Lessee, intending to be legally bound hereby and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Lessee, does hereby:

A. Acknowledge and consent to the assignment to Lender, for security purposes, of all Lessor's right, title, and interest, and claims and demands of Lessor in, under and to the Lease, including without limitation:

(i) to the extent set forth in the Loan Agreement and the Assignment of Lease and Rents, the immediate and continuing right to receive and collect all rental payments, casualty value payments, insurance proceeds and other payments, revenues, receipts, tenders and security now or hereafter payable to or receivable by Lessor with respect to the Railcars (as defined in the Loan Agreement) under the Lease;

(ii) to the extent set forth in the Loan Agreement and the Assignment of Lease and Rents, the right to make all waivers and amendments and to enter into any agreements relating to the Lease or any provisions thereof; and

(iii) to the extent set forth in the Loan Agreement and the Assignment of Lease and Rents, the right to take such action upon the occurrence of a default or event of default under the Lease as shall be permitted by the Lease or by law, and to do any and all other things whatsoever which Lessor is or may be entitled to do under the Lease.

B. Acknowledge and agree that, notwithstanding the assignment for security purposes by Lessor to Lender, the Lender has not assumed and does not assume the responsibility to discharge or perform any liability, duty or obligation of Lessor to be performed under the Lease and the Lessee agrees that it shall look solely to Lessor for the discharge, performance or satisfaction of any such liability, duty or obligation.

C. Acknowledge and consent to, and hereby agrees to comply with, according to its terms, the Financial Covenant set forth in Section A.7 of the Loan Agreement.

D. Represent and warrant that the Lease and this Acknowledgment of Notice and Assignment have been duly authorized, executed and delivered by the Lessee and constitute the legal valid and binding agreement of the Lessee enforceable against the Lessee in accordance with their respective terms.

E. Represent and warrant that no default, event of default or event which with the lapse of time or giving of notice, or both, would constitute a default or event of default under the Lease has occurred and is continuing.

F. Represent and warrant that it has made no prepayment of rental to the Lessor and that no offset or deduction exists with respect to Lessee's obligation to pay any sums payable by the Lessee under and pursuant to the terms of the Lease.

G. If so directed by Lender and under payment instructions given in such direction by Lender, agree to make all payments to be made by it under the Lease directly to Lender at the following address, or such other address as Lender shall notify to Lessee in writing:

Deutsche Credit Corporation  
2333 Waukegan Road  
Deerfield, Illinois 60015

H. Represent and warrant that the document attached as Exhibit A hereto is a true, correct and complete copy of the Lease as amended, that such document has not since the date of its execution and delivery been further amended or modified in any aspect and that the Lease sets forth the entire agreement between the Lessor and Lessee with respect to the subject matter thereof.

This Acknowledgement of Notice and Assignment, when accepted by Lender by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Illinois and, for all purposes, shall be construed in accordance with the laws of said state without regard to its conflicts of law doctrine.

ARKANSAS AND MISSOURI RAILROAD COMPANY

By: R. P. Hennrich

Title: Vice Pres & CMO

ACCEPTED:

DEUTSCHE CREDIT CORPORATION

By: AK RS

Title: SVP J. L. P.

STATE OF ARKANSAS )  
COUNTY OF WASHINGTON )

SS.

On this 10<sup>th</sup> day of AUGUST, 1993, before me personally appeared R. P. Harwood to me personally known, who being by me duly sworn, says that he is the Vice Pres & CMD of A & M Railroads, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Victoria B. Morgan  
Notary Public

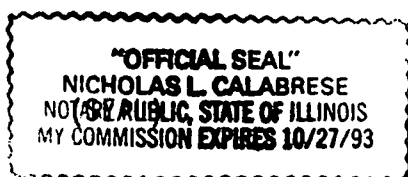
(SEAL)

My commission expires: 02-01-2002

STATE OF Illinois )  
COUNTY OF LAKE )

SS.

On this 12<sup>th</sup> day of August 1993, before me personally appeared Robert Schorn / Scott Fritzel to me personally known, who being by me duly sworn, says that he is the SVP of DEUTSCHE CREDIT CORPORATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Mr. Fritzel  
Notary Public

## SCHEDULE A

PLE	47000	PLE	47062
PLE	47002	PLE	47063
PLE	47004	PLE	47074
PLE	47005	PLE	47078
PLE	47006	PLE	47080
PLE	47007	PLE	47081
PLE	47010	PLE	47083
PLE	47012	PLE	47085
PLE	47013	PLE	47086
PLE	47014	PLE	47087
PLE	47015	PLE	47088
PLE	47018	PLE	47091
PLE	47019	PLE	47093
PLE	47021	PLE	47095
PLE	47022	PLE	47096
PLE	47023	PLE	47097
PLE	47024	PLE	47098
PLE	47026	PLE	47099
PLE	47028	PLE	47101
PLE	47031	PLE	47104
PLE	47032	PLE	47107
PLE	47033	PLE	47110
PLE	47037	PLE	47111
PLE	47038	PLE	47117
PLE	47040	PLE	47119
PLE	47042	PLE	47123
PLE	47045	PLE	47126
PLE	47046	PLE	47127
PLE	47047	PLE	47128
PLE	47048	PLE	47129
PLE	47049	PLE	47130
PLE	47052	PLE	47134
PLE	47054	PLE	47135
PLE	47055	PLE	47136
PLE	47058		

\* Subsequent to modification pursuant to agreement by East Railroad Services, Inc, New Castle, PA, these Railcars will bear Marks and Numbers A & M 900-969 but not necessarily to correspond to the order set forth above.